

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IVAN MARTINEZ,  
Plaintiff,

v.

Civil Action No. 05-11446-GAO

COMMONWEALTH OF MASSACHUSETTS, et al.,  
Defendants.

ORDER ON APPLICATION TO  
PROCEED WITHOUT PREPAYMENT OF FEES

Now before the Court is plaintiff's application to proceed without prepayment of fees and affidavit under 28 U.S.C. § 1915:

FINDINGS

A. Is plaintiff a "prisoner" as defined in 28 U.S.C. § 1915(h) and/or 28 U.S.C. § 1915A(c):

Yes  No

B. Is a filing fee under 28 U.S.C. § 1915(b) to be assessed at this time:

1. Yes  Plaintiff is obligated to pay the entire statutory filing fee immediately. See 28 U.S.C. § 1915(b)(1); 28 U.S.C. § 1914 (\$150.00 for a civil action).
2. Yes  An initial partial filing fee of \$3.22 is assessed pursuant to 28 U.S.C. § 1915(b)(1). The remainder of the fee \$246.78 is to be assessed in accordance with 28 U.S.C. § 1915(b)(2).
3. Yes  Plaintiff has proffered evidence of being without funds for six months and being currently without funds. Under 28 U.S.C. § 1915(b)(2), plaintiff is assessed an obligation to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account until the \$150.00 filing fee is paid in full.
4. No  Plaintiff is not assessed an initial partial filing fee or obligation to make monthly payments at this time.

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Page 2

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ORDERS

Based upon the foregoing:

1. The application to proceed without prepayment of fees is GRANTED.

Yes  No

2. If a filing fee assessment has been made under paragraph B above, is it a provisional finding that is subject to early modification:

Yes  No

If the above answer is Yes, the following applies:

If the plaintiff files, within 35 days of the date of this Order, a certified copy of his/her prison trust account or a statement signed by plaintiff under the pains and penalties of perjury demonstrating eligibility to proceed in this action without paying an initial partial filing fee or without payment of any fee assessed above, the Court will consider the certification or statement in determining whether to modify any fee assessment under 28 U.S.C. § 1915(b)(2).

3. The Clerk shall send a copy of this Order to the institution having custody of plaintiff:

Yes  No

4. The Clerk shall return the complaint to the undersigned for screening on the merits pursuant to 28 U.S.C. §§ 1915(e)(2) and/or 1915A:

Yes  No

5. Summons shall NOT issue pending the completion of screening on the merits pursuant to 28 U.S.C. §§ 1915(e)(2) and/or 1915A:

Yes  No

SO ORDERED.

November 30, 2005  
DATE

/s/ George A. O'Toole, Jr.  
UNITED STATES DISTRICT JUDGE